

109TH CONGRESS  
2D SESSION

# H. R. 5204

To designate certain functions as inherently governmental, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

APRIL 26, 2006

Mr. EVANS (for himself and Mr. LAHOOD) introduced the following bill; which was referred to the Committee on Government Reform

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## A BILL

To designate certain functions as inherently governmental,  
and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Federal Locks and  
5       Lock and Dam Facilities Act of 2006”.

6       **SEC. 2. INHERENTLY GOVERNMENTAL DETERMINATION.**

7       (a) IN GENERAL.—

8               (1) INHERENTLY GOVERNMENTAL.—For pur-  
9       poses of section 2(a) of the Federal Activities Inven-  
10      tory Reform Act of 1998 (112 Stat. 2382), water

1 and navigational resource projects and facilities, in-  
2 cluding the operation and maintenance of locks and  
3 lock and dam facilities, are considered national crit-  
4 ical infrastructures and the operation and mainte-  
5 nance of locks and lock and dam facilities are con-  
6 sidered inherently governmental functions that re-  
7 quire performance by Federal employees.

8 (2) TRANSFER.—The transfer of any function  
9 described in paragraph (1) to a different agency  
10 shall not change the inherently governmental func-  
11 tion determination which requires performance of  
12 such functions by Federal employees.

13 (b) EXCEPTIONS.—Notwithstanding subsection (a),  
14 the Army Corps of Engineers may continue to contract—

15 (1) for private sector performance of functions  
16 related to the operation and maintenance of locks  
17 and lock and dam facilities that are performed under  
18 contracts with the private sector in effect on March  
19 1, 2006, except that nothing in this section shall  
20 prevent the Army Corps of Engineers from using  
21 Federal employees to perform such functions in the  
22 future; and

23 (2) with the private sector to construct new  
24 locks and lock and dam facilities.

1       (c) DEFINITION.—For purposes of this section, the  
2 term “operation and maintenance of locks and lock and  
3 dam facilities” includes all activities associated with oper-  
4 ation, maintenance, and repair of locks and lock and dam  
5 facilities as well as surrounding areas and associated fa-  
6 cilities and equipment, including embankments, flood-  
7 gates, spillways, outlet works, levees, pumping structures,  
8 and moveable bridge spans over navigable waterways nec-  
9 essary for the transit of vessels; opening and closing the  
10 lock gates to permit transit of vessels and giving directions  
11 to vessel pilots transiting locks; actions related to the re-  
12 lease of water from lock and dam facilities, such as the  
13 operation of spillway gates and other outlet works, for  
14 flood control or maintenance of a navigation pool; related  
15 to enforcement of laws, rules, and regulations on site at  
16 locks and locks with dam facilities; and contract manage-  
17 ment and oversight.

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